

Terry J. Harris, WyBar # 5-2068
HARRIS, HARRIS & QUINN, P.C.
P.O. Box 368
2618 Warren Avenue
Cheyenne, Wyoming 82003-0368
Telephone (307) 638-6431

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING**

UNITED STATES OF AMERICA,)	
)	
<i>Plaintiff,</i>)	
)	
vs.)	Criminal No. 19-CR-171-ABJ
)	
MATTHEW “TY” BARRUS,)	
)	
<i>Defendant.</i>)	

**DEFENDANT BARRUS’ RESPONSE AND PARTIAL OPPOSITION TO THE
GOVERNMENT’S MOTION FOR A PROTECTIVE ORDER – ECF NO. 142**

COMES NOW the Defendant Matthew “Ty” Barrus, by and through his counsel, Terry J. Harris of Harris, Harris & Quinn, P.C., and provides this Court and the parties with the following response to the *Government’s Motion For Protective Order* (ECF No. 142).

As made clear by undersigned at the December 17, 2021 hearing held on the *Government’s Motion To Quash* (ECF No. 135) and in the jointly-filed *Defendants’ Response To The Government’s Motion To Quash* (ECF No. 139), Defendant Barrus has no objection to this Court entering an appropriate protective order as to those documents to have been produced in response to the subpoenas *duces tecum* served on (1) Wyoming Medicaid, Wyoming Department of Health, (2) ACS, a Xerox Company, and its successors, (3) the Program Integrity Unit, Wyoming Department of Health, (3) the Healthcare Financing Division, Wyoming Department of Health (ECF Nos. 130-1, 130-2, 130-4, and 130-5), and (5) the Medicaid Fraud Control Unit (MFCU), Wyoming Attorney

General's Office (ECF No. 130-3). Similarly, Defendant Barrus has no objection to this Court entering an appropriate protective order as to the Victim Impact Statement produced to undersigned in response to the subpoenas *duces tecum* served on Andrew Chapin and the Program Integrity Unit (ECF Nos. 126-2 and 126-3) and subsequently filed, *ex parte*, with this Court. ECF No. 132.

However, Defendant Barrus believes the proposed protective order now sought by the Government and submitted to this Court is overly broad and Defendant Barrus accordingly suggests it be modified to expressly provide for Defendants Barrus, Bennett and Dutson sharing those materials produced in response to the subpoenas *duces tecum*. The Victim Impact Statement already has been shared by undersigned with counsel for Defendants Bennett and Dutson. That same document also previously was shared by AUSA Heimann with all three Defendants. Also, as this Court is aware, the subpoenas *duces tecum* issued for the Wyoming Medicaid audits and patient records requests were sought pursuant to a defense motion filed jointly by Defendants Barrus, Bennett and Dutson. ECF No. 130. Counsel for Defendants Barrus, Bennett and Dutson anticipate production of those subpoenaed documents to counsel for Defendant Bennett, who then will share all those documents with counsel for Defendants Barrus and Dutson. Any protective order entered should reflect that such sharing is authorized.

Finally, the Government seeks a *prospective* protective order as to "any future subpoenas *duces tecum* unless the requesting party specifically requests an exemption and the court grants it." ECF No. 142. As proffered support the Government asserts that "the charged fraud is based on mental health and substance abuse treatment . . . and the government is unable to review the defendants' *ex parte* requests for subpoenas" ECF No. 142. Those assertions do not support a prospective protective order as to any and all documents that may be sought from and produced by

third parties in response to any future Rule 17(c), F.R.Cr.P., subpoenas *duces tecum* issued by this Court. Instead, this Court can and should consider the appropriateness of any protective order in connection with any actual subpoena(s) *duces tecum* sought by these Defendants and issued by this Court.

WHEREFORE, Defendant Barrus respectfully requests that the Court enter its protective order, appropriately limited in scope, however, as set forth above, and provide such further relief as is appropriate.

Respectfully submitted this 28th day of December, 2021.

s/Terry J. Harris

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HARRIS, HARRIS & QUINN, P.C.
P.O. Box 368
2618 Warren Avenue
Cheyenne, Wyoming 82003-0368
Telephone (307) 638-6431
tjharrispc@gmail.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served upon the parties, *via* CM/ECF, this 28th day of December, 2021.

s/Terry J. Harris

Terry J. Harris